

Appl. No. 10/824,128
Docket No. 9210M
Amdt. dated April 18, 2008
Reply to Office Action mailed on January 18, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1-24 are pending in the present application. Independent Claims 1 and 22-24 are currently amended to recite that the cosmetic composition comprises silicone modified fluorinated polymers comprising from about 0.01% to less than 1%wt of the cosmetic composition. *See* specification page 4, lines 25-27 for support. Claim 17 is currently amended to depend from Claim 1. Claim 19 is currently amended to correct a misspelling. No additional claims fee is believed to be due.

Rejections

Claims 1-2 and 5-24 were rejected under 35 USC §103(a) as being unpatentable over Drechsler *et al.* (US Patent 6,071,503) in view of Morita *et al.* (US Patent 6,500,439). Claims 3-4, which depend from currently amended Claim 1, were rejected under 35 USC §103(a) as being unpatentable over Drechsler in view of Morita and in further view of Humbert *et al.* (US Patent 4,137,302).

The Examiner avers on page 7 of the Final Office Action that “the features upon which applicant relies (i.e., percentages of active agents) are not recited in the rejected claim(s).” And, the Examiner rightfully states that limitations from the specification are not read into the claims. Accordingly, independent Claims 1 and 22-24 are currently amended to recite that the cosmetic composition comprises silicone modified fluorinated polymers from about 0.01% to less than 1%wt of the cosmetic composition. *See* specification page 4, lines 25-27 for support. Applicants submit that the “wherein the silicone modified fluorinated polymers comprise from about 0.01% to less than 1%wt” of the cosmetic composition or product limitation is not disclosed by any of the cited references. Applicants also submit that one of ordinary skill in the art would not perceive this difference to be an obvious variation of Morita since Morita teaches that a preferred concentration of fluorine-containing copolymer is 10 to 40% by weight and a concentration of less than 1% is not preferred. Morita thus teaches away from the smaller concentration of silicone modified fluorinated polymer of the present invention: “[t]he proportion less than 1% by weight leads to insufficient amount of the fluorine-containing

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copolymer content in the cosmetic and therefore sufficient water resistance and water- and oil-repellency cannot be exhibited.” *See* Morita, col. 10, lines 17-27.

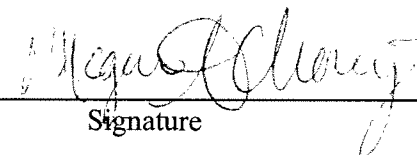
In view of the amendments and related discussion, Applicants respectfully request reconsideration and withdrawal of the Section 103 rejections.

Conclusion

Applicants have made an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, Applicants respectfully request entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Signature

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Customer No. 27752
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